

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
SOUTHERN DIVISION

GIORDANO AGUIAR,

Plaintiff,

v

WALMART STORES, INC., and
WAL-MART STORES, EAST, LP

Defendants.

USDC Case No. 2:22-CV-11013

Hon:

Lower Case No. 22-001370-NO

DREW SLAGER (P72941)
MANCINI SCHREUDER KLINE, P.C.
Attorney for Plaintiff
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dslager@mancini-law.com
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RICHARD G. SZYMCZAK (P29230)
PLUNKETT COONEY
Attorney for Defendant
38505 Woodward Avenue, Suite 100
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(810) 342-7007 | Fax: (248) 901-4040
rszymczak@plunkettcooney.com

NOTICE OF FILING REMOVAL

NOTICE OF REMOVAL TO FEDERAL COURT

VERIFICATION

CERTIFICATE OF SERVICE

PLUNKETT COONEY

By: /s/Richard G. Szymczak

Richard G. Szymczak (P29230)

Attorney for Defendants

38505 Woodward Avenue, Suite 100

Bloomfield Hills, MI 48304

(810) 342-7007

Dated: May 12, 2022

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TO: DREW SLAGER (P72941)
MANCINI SCHREUDER KLINE, P.C.
28226 Mound Road
Warren, MI 48092-3498

Macomb County Circuit Court
Clerk of the Court
40 N. Main Street
Mt. Clemens, MI 48043

PLEASE TAKE NOTICE that Defendants, Walmart Stores, Inc., and
Walmart Stores East, LP, has this day filed a Notice of Removal, a copy of

which is attached hereto, in the office of the Clerk of the United States District Court, Eastern District of Michigan, Southern Division.

PLUNKETT COONEY

By: /s/Richard G. Szymczak
Richard G. Szymczak (P29230)
Attorney for Defendants
38505 Woodward Avenue, Suite 100
Bloomfield Hills, MI 48304
(810) 342-7007

Dated: May 12, 2022

PROOF OF SERVICE

The undersigned certifies that on the 12th day of May 2022, a copy of the foregoing document was served upon the attorney(s) of record in this matter at their stated business address as disclosed by the records herein via:

<input type="checkbox"/> Hand delivery	<input type="checkbox"/> Overnight mail
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> Email	<input checked="" type="checkbox"/> Electronic e-file

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief.

/s/Della Dubovsky
Della Dubovsky

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NOTICE OF REMOVAL TO FEDERAL COURT

TO: Clerk of the Court
Drew Slager, Esq.

DEFENDANTS, Walmart Stores, Inc., a/k/a .Walmart Inc., and Walmart
Stores East, LP, ("WM") submits this Notice of Removal:

1. On or about April 7, 2022, Plaintiff filed a civil action in the Macomb County Circuit Court, State of Michigan, bearing Case No. 22-001370-NO, in which Giordano Aguiar is the Plaintiff and WM are the Defendants. A copy of the Complaint filed in the Macomb County Circuit Court is attached to this Notice of Removal as **Exhibit A**.

2. This action, as alleged in the Complaint, is a suit brought by Plaintiff against WM for negligence and premises liability.

3. This action is between citizens of different states. The Plaintiff is a resident of the County of Macomb, State of Michigan (see Paragraph 1 of **Exhibit A**). WM is a Delaware limited partnership whose members are WSE Management, LLC and WSE Investment LLC, both of which are Delaware limited liability companies based in Arkansas. The sole member of both WSE Management, LLC and WSE Investment, LLC is Walmart Stores East, LLC, which is an Arkansas limited liability company with its principal place of business in Bentonville, Arkansas. The sole member of Walmart Stores East LLC is Walmart Inc., formerly Walmart Stores, Inc., a Delaware corporation with its principal place of business in Bentonville, Arkansas.

4. WM is not a corporation created or organized under the laws of the State of Michigan, is not domiciled in Michigan and does not have its principal place of business in the State of Michigan.

5. The action filed by Plaintiff against WM is one involving complete diversity of citizenship under 28 U.S.C. § 1332 as a civil action between citizens of the State of Michigan and the State of Delaware.

6. The alleged date of incident is August 6, 2020.

7. WM asserts it is more likely than not that the amount in controversy sought by Plaintiff exceeds the jurisdictional requirements of 28 U.S.C. § 1332(a) because Plaintiff specifically alleges total damages “in excess of \$25,000.00” as Plaintiff has declined to cap his damages below the jurisdictional limit.

8. Plaintiff’s Complaint sets forth allegations that he suffered:

- a. Injuries to his low back, legs, and related and resultant injuries; requiring surgery
- b. Physical pain and suffering;
- c. Disability and disfigurement;
- d. Mental anguish;
- e. Fright and shock;
- f. Denial of social pleasures and enjoyment of the usual activities of life;
- g. Embarrassment, humiliation and mortification;
- h. Medical expenses, past and future;
- i. Loss of earnings and earning capacity; and,
- j. Other Damages allowed by law.

9. This Notice of Removal is timely filed within thirty (30) days after the Complaint was filed and served upon WM, as the Complaint was served on April 15, 2022.

10. A written notice of the filing of this Notice of Removal has been given to all parties as required by law, and a proof of service is attached hereto as **Exhibit B**.

11. A written notice of this Removal has been filed with the Clerk of the Court for the Wayne County Circuit Court, State of Michigan, as provided by law.

12. Based upon the foregoing, WM is entitled to removal of this action to the United States District Court for the Eastern District of Michigan, under 28 U.S.C. § 1441, *et seq.*

WHEREFORE, Defendant, WM, respectfully requests that it be allowed to effect removal of the within action from the Macomb County Circuit Court, State of Michigan, to the United States District Court for the Eastern District of Michigan.

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**
Richard G. Szymczak (P29230)
Attorney for Defendants
38505 Woodward Avenue, Suite 100
Bloomfield Hills, MI 48304
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Dated: May 12, 2022

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VERIFICATION

RICHARD G SZYMCZAK, first being duly sworn, states that he is the attorney for Defendants and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information, and belief.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Richard G. Szymczak

Richard G. Szymczak (P29230)

Attorney for Defendant

38505 Woodward Avenue, Suite 100

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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2022, I electronically filed ***Defendants'***
Notice of Filing Removal, Notice of Removal to Federal Court, Verification,
and Certificate of Service with the Clerk of the Court using the ECF system, or
in the alternative, I have mailed by United States Postal Service to any parties
that are not ECF participants.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**

Richard G. Szymczak (P29230)

Attorney for Defendant

38505 Woodward Avenue, Suite 100

Bloomfield Hills, MI 48304

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